

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

J. KENNETH KEARNEY USA LTD.,

Plaintiff,

V.

DAVID SMITH

Defendant.

CIVIL ACTION

NO. 04 CV 12643 RCL

JOINT MOTION FOR FURTHER STAY OF PROCEEDINGS

The parties to the above-captioned matter, Plaintiff J. Kenneth Kearney USA Ltd. and David Smith, hereby jointly move this court for an additional sixty (60) day stay of this action from August 14, 2005 until October 14, 2005. As grounds for this Motion, the parties state as follows:

1. On June 14, 2005, the parties entered into an interim settlement agreement which provided that the parties agreed to conduct further good faith settlement negotiations in an attempt to resolve the dispute that is the subject of this litigation. For the past sixty (60) days, the parties have conducted such negotiations, which are still ongoing. The negotiations involve a number of issues as well as an outside investor. Thus, an additional stay is necessary in order to give the parties more time to conduct the negotiations. This short stay will not prejudice any party and is intended to conserve judicial and the parties' resources while the settlement discussions are ongoing.

WHEREFORE, the parties respectfully request that this court allow the Joint Motion to Stay the Proceedings for sixty (60) days, until October 14, 2005.

Respectfully submitted,

<p>DAVID SMITH, By his attorneys,</p> <p><u>/s/ Timothy P. Van Dyck (w/ permission)</u> Timothy P. Van Dyck tvandyck@EdwardsAngell.com Windy L. Rosebush wrosebush@EdwardsAngell.com Edwards & Angell, LLP 101 Federal Street Boston, MA 02110 (617) 439-4444</p>	<p>J. KENNETH KEARNEY USA LTD. By its attorneys,</p> <p><u>/s/ Kristin M. Cataldo</u> William A. Zucker, BBO # 541240 wzucker@ghlaw.com Kristin M. Cataldo, BBO # 654033 kcataldo@ghlaw.com Gadsby Hannah LLP 225 Franklin Street Boston, MA 02110 (617) 345-7000</p>
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August 15, 2005

Certificate of Service

I hereby certify that on August 15, 2005 I served a true and accurate copy of Joint Motion to Stay Proceedings upon all counsel of record electronically.

Dated: August 15, 2005

/s/ Kristin M. Cataldo
Kristin M. Cataldo